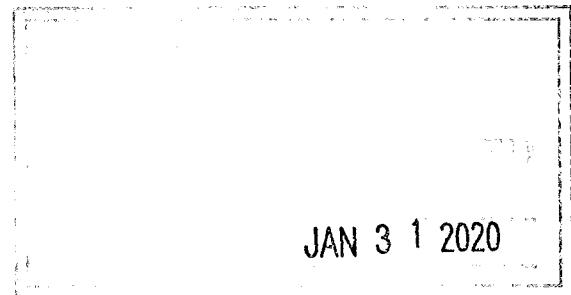
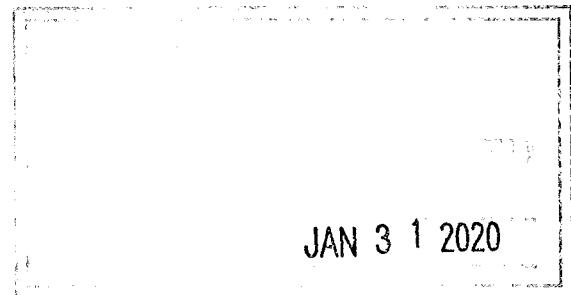
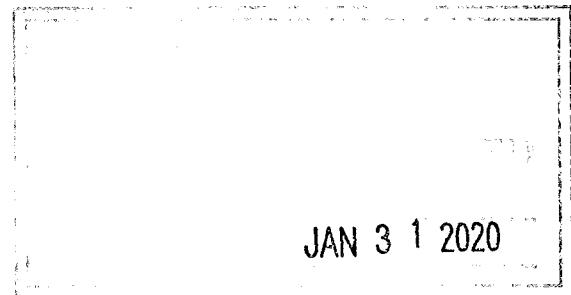
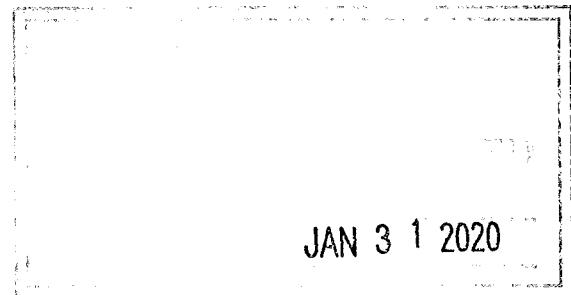


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SHELDON HERBERT, BENJAMIN DAVIS, : ECF
JUSTYN MARTINDALE, :
Individually and on Behalf of All Other : 18 Civ. 5653 (AJN)
Persons Similarly Situated, :
: 

Plaintiffs, :
: 

-against- :
: 

GO NEW YORK TOURS INC. and :
ALON BRAND, :
: 

Defendants. :
-----X

JAN 3 1 2020

[PROPOSED] ORDER PRELIMINARILY APPROVING
CLASS AND COLLECTIVE ACTION SETTLEMENT AND
PROVIDING FOR NOTICE OF FAIRNESS HEARING

WHEREAS, the class and collective action, *Herbert v. Go New York Tours, Inc., et al.*, Civil Action Number 18-cv-5653 (“Lawsuit”), is currently pending before this Court;

WHEREAS, the parties have made an application, pursuant to Federal Rules of Civil Procedure 23(e) and (g) for an order approving settlement of the claims alleged in the Lawsuit on a class basis (the “Settlement”) and appointing class counsel in accordance with a Settlement Agreement dated as of July 27, 2019 (the “Agreement”), which, together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of the Lawsuit against Defendants and for dismissal of the Lawsuit against Defendants with prejudice upon the terms and conditions set forth therein, and the Court has read and considered the Agreement, the exhibits annexed thereto, and the parties’ joint motion for approval; and

WHEREAS, all capitalized terms contained and not otherwise defined herein shall have the same meanings set forth in the Agreement.

IT IS ON THIS 30th DAY OF January, 2020, HEREBY ORDERED AS

FOLLOWs:

1. The Court hereby preliminarily approves the Settlement set forth in the Agreement as being fair, just, and reasonable.

2. For purposes of the Settlement, the Court hereby preliminarily certifies the class as defined in the Agreement (hereinafter, the "Class"); namely, the persons listed on Exhibit A to the Agreement who were bus station/boat dock supervisors who were employed by Go New York Tours, Inc. ("Go New York") on or between June 21, 2012 and September 28, 2016. The Court preliminarily finds, for settlement purposes, that the Class meets all of the requirements of Federal Rule of Civil Procedure 23.

3. The Court appoints the Named Plaintiffs as class representatives and appoints as Class Counsel the Law Office of William Coudert Rand.

4. The Agreement falls within the range of reasonableness and appears to be presumptively valid, subject only to the objections that may be raised at the final Fairness Hearing.

5. The Court approves, as to form and content, the Notices of Settlement attached as Exhibit B to the Agreement under Federal Rules of Civil Procedure 23(c) and (e), and finds that the mailing and distribution of the Notices substantially in the manner and form set forth in the Agreement constitutes the best notice practicable under the circumstances, and constitutes valid, due, and sufficient notice to all persons in the Class and Collective, complying fully with the requirements of Federal Rule of Civil Procedure 23, the Fair Labor Standards Act (the "FLSA"), the Constitution of the United States, and any other applicable laws.

6. A Fairness Hearing shall be held before this Court on June 2, 2020, at 1 p.m. [not less than 90 days from the Class Action Fairness Act, ("CAFA"), 28 U.S.C. § 1715(b) notice

mailing date] at the United States District Court, Southern District of New York, Thurgood Marshall U.S. Courthouse, 40 Foley Square, New York, NY 10007, to determine finally whether the proposed settlement of the Lawsuit on the terms and conditions provided for in the Agreement is fair, just, reasonable, adequate, and in the best interest of the Class, and should be approved by the Court; and whether entry of Judgment and Final Approval, as provided in the Agreement, should be entered.

7. Class Counsel is hereby authorized to supervise and administer the notice procedure as more fully set forth below:

A. On or before February 19, 2020 [20 days from this Order], Go New York shall provide Class Counsel the following information for all Class Members: name, social security number, last known addresses, and last known personal email addresses, if any (the “Class Contact List.”).

B. On or before thirty (30) days from this Order (the “Notice Date”), the Settlement Claims Administrator shall cause to be mailed by first-class mail and by email if email address identified, a copy of the Notices of Settlement, substantially in the form annexed as Exhibit B to the Agreement, to all putative Class and Collective Action Members who can be identified or located with reasonable effort.

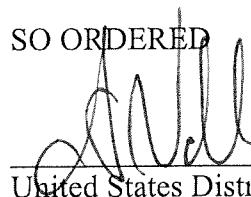
C. Class Members shall have thirty (30) days from the date that the Notice is mailed to opt-out of the settlement by mailing an Opt-Out Statement to the Settlement Claims Administrator, containing the information required by the Agreement.

D. Class Members shall have thirty (30) days from the date that the notice is mailed to mail a Written Objection to the Settlement Claims Administrator, containing the information required by the Agreement. Any statement of position or objection shall state the

objector's name, address, and telephone number and dates of employment with GO NEW YORK TOURS, INC. and whether the objector intends to speak at the Fairness Hearing. Any member of the Class who does not make his or her objection in the manner provided in the Agreement shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as incorporated in the Agreement, the releases provide for in the Agreement, the award of attorneys' fees, costs, and expenses to Class Counsel, and the award of an incentive payment for the Named Plaintiffs, unless otherwise ordered by the Court.

E. Class Counsel shall file a Motion for Judgment and Final Approval of the Settlement and the Agreement no later than fifteen (15) days before the Fairness Hearing. Defense Counsel may join in this motion or file a motion of their own.

F. The Court reserves the right to adjourn the date of the Fairness Hearing without further notice to the Class Members and retains jurisdiction to consider all further applications arising out of or connected with the proposed settlement. Notice of any adjournment can be obtained from Class Counsel: William C. Rand, Esq., Law Office of William Coudert Rand, 501 Fifth Ave., 15th Floor, New York, New York 10017 (phone #212-286-1425) (fax #646-688-3078). The Court may approve the settlement, with such modifications as may be agreed to by Class Counsel and Defense Counsel, if appropriate, without further notice to the Class.

SO ORDERED

United States District Judge
Alison J. Nathan

Dated: January 30, 2019